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HOMICIDE--EPILEPSY.

BY DR. I. RAY.



From "Amer. Journal of Insanity"

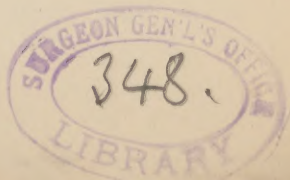
Oct. 1867.

HOMICIDE—EPILEPSY.

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BY DR. I. RAY. ✓
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On the 29th of April last, George W. Winnemore was indicted by the grand jury in Philadelphia, Pa., for the murder of Dorcas Magilton, on the 25th of April—four days before—and the third of May following was assigned for his trial, before the court of Oyer and Terminer, Brewer and Pierce, associate justices.

It appeared in evidence that the husband of the deceased came home one day, after an hour's absence, and was let in by the prisoner, who said he had just before come in and found Mrs. M. with her throat cut, and quite dead. The prisoner went for a policeman and was himself arrested while leaving the premises, shortly after. The evidence against him was circumstantial, of course, and consisted of but few facts: a razor identified as his was found in the privy; two bank bills of two dollars each were in the possession of the deceased the day before, and two bills of two dollars each were found in the prisoner's pocket; and his own statement, that he entered the house a few minutes only previously to the husband, was disproved by two witnesses, neighbors, who had been looking in that direction from their windows, steadily, for half an hour before they saw Mr. M. go to the door. To meet this evidence, the prisoner's counsel contended that it was impossible to identify so common a thing as a razor, hundreds of thousands of which may be made after the same pattern;



that, though the bills were of the same denomination, yet their identity was not established; that he was not pressed for money, and could have borrowed it from his brother if necessary; that he had never been guilty of any criminal act, and was regarded by all who knew him (and the evidence on this point was quite satisfactory,) as a quiet, inoffensive, well-disposed young man.

The defence did not consist solely in an endeavor to prove an alibi. It appeared that the prisoner began to suffer from epilepsy at two or three years of age, and continued so to suffer until he was ten or eleven years old. Evidence respecting his disease subsequent to that period was entirely wanting, except that on his way to court one day, in the course of the trial, he had a fit. It appeared, too, that when seven years old he had a fall on the head, described as being a very serious one, and now indicated by a scar. The witnesses who testified to his having fits said he would sometimes have thirty or forty in a day. Of late years, his brother said, he professed to be able to see the dead as plainly as he saw the living. At times he imagined himself to be an Indian chief, and would talk the Indian language. The language of the witness would seem to imply that this sort of clairvoyance was paroxysmal, because "when I thought he was himself," he said, "I would ask him about it, and he would know nothing of it." He also professed to be able to know what was going on miles away. His sister stated that at times, during the last eight or ten months, "he acted very foolish," "would make motions with his hands, and talk strangely," and that she was afraid to be alone with him. To another witness he seemed to talk very incoherently, saying, among other things, that he saw spirits about him the size of a pin's head. His mother and elder sister both testified to strange manifestations during the last few

months. The former said, "he would laugh, jerk about, make queer faces." "He would dance around the room like an Indian." "Sometimes his eye looked very vacant, sometimes very glassy." "I often felt afraid of him." The sister said, "he would make peculiar grimaces, and twist his fingers in a peculiar manner." "I sometimes feared he would do me harm." Others spoke of his being in an unconscious state half an hour at a time; and others of his being very absent-minded. It appeared that he had made two attempts, at least, upon his own life, and that an uncle had committed suicide.

Upon this state of facts, the counsel set up the defense of insanity. Several physicians were examined, only one of whom could be regarded as an expert in insanity, but their testimony was not founded upon such a knowledge of the case, either in its general or particular relations, as was needed to make it very satisfactory. Their testimony was confined to some desultory remarks respecting the effect of epilepsy on the mind, but it embraced nothing like a complete methodical statement of facts. Indeed, the counsel for the government were not disposed to have it, and did what they could to prevent it. When the testimony referred to the nature of epilepsy generally, they interposed the objection that it had no connection with the prisoner's case, and when it had special reference to the prisoner, it was stopped on the plea that the witness had not heard *all* the evidence in the case. No medical witness had made a particular examination of the prisoner, nor heard all the evidence given at the trial. The plea of insanity, thus feebly supported, could hardly be expected to prevail, and accordingly the prisoner was convicted, and on the 29th of August was executed, persisting to the last in declaring that he did not commit the deed.

The counsel, feeling that the trial had not been a fair one, endeavored to obtain a new trial, but failed. They then requested the Governor to appoint a medical commission for the purpose of investigating the prisoner's mental condition, and in this too they failed. As a last resort, a few days before the execution they requested some medical men, who were familiar with epilepsy and insanity, to have a personal interview with the prisoner, the result of which was the following petition addressed to the Governor.

To his Excellency, JOHN W. GEARY:

The undersigned, all of whom have been engaged for many years in the care of the insane, have, this day, at the request of Damon Y. Kilgore, had an interview with George W. Winnemore, and, in consequence thereof, beg leave to make the following statement:

Winnemore now, and probably for some time past, shows indications of an abnormal state of mind; of a mental condition which may be attributable to the epileptic fits to which he has been subject from infancy. In regard to its degree and kind, we feel unable to speak exactly, because one interview, though prolonged to between two and three hours, was not sufficient for the purpose.

We would also state, that epilepsy, especially when of long duration, oftener than otherwise impairs the mental powers, sometimes in one way, sometimes in another, and therefore, whenever an epileptic is charged with crime, nothing less than an exhaustive investigation of his history and of all the circumstances of the case, can remove the suspicion that the crime may have been committed in one of those abnormal conditions that are so often the sequel of epilepsy.

In consideration of these facts, therefore, we respectfully pray your Excellency to stay his execution for a few weeks, in order that a deliberate scientific investigation of Winnemore's case may be made by the undersigned.

ISAAC RAY, M. D.,

Late Superintendent of the Butler Hospital for the Insane, at Providence, R. I.

J. H. WORTHINGTON, M. D.,

Superintendent of Friends' Asylum for the Insane, Philadelphia.

S. PRESTON JONES, M. D.,

Assistant Physician Penn. Hospital for the Insane.

In the interview referred to the prisoner was found to be a spare, slim young man, of a decidedly nervous temperament, with a quiet, ingenuous manner, and a cheerful expression. He was disposed to talk, and answered all inquiries freely and fully. His language was free from low, coarse expressions, and indicated some degree of intellectual culture. He showed a little carelessness of dress, and a certain kind of untidiness, very characteristic of some classes of the insane.

He said he had always been an epileptic from his earliest recollection, the fits occurring sometimes several in the day, and sometimes at intervals of a twelve-month. They were generally brief, and within half an hour or so he was himself again. Occasionally he did not so readily recover, and was disabled for a week or two. He had no premonition of the attacks, though sometimes they were preceded by a little exhilaration, indicated by unusual laughing and talking. Neither did he experience the epileptic aura, nor was he aware that the fits were ever simply epileptiform, scarcely visible to the observer. He was not aware that the fits were preceded or followed by an unusual sense of distrust or suspicion or apprehension. He could call to mind two occasions of being quite unconscious for several hours, though continuing his employment, and appearing to others as usual. On the first, which happened while quite a boy, he got a boat and spent the day rowing about on the river, and when asked about it the next day, he had no recollection of the occurrence, the period being an utter blank in his mind. During the last few years, this paroxysmal kind of unconsciousness had occurred several times, but had not extended beyond half an hour or little more. He believed in all the notions of spiritualism as professed and practiced at the present time, but he also believed something more than

this. His spirit, he said, had the power of leaving the body at will, and going to distant lands and to other worlds. The spirits of both the dead and the living often appeared before him, clothed in bodily shape and perfectly visible to the bodily eye, and they conversed together in audible language. The nearest approach to delusion that he manifested was observed in his expressions respecting his own fate. He regarded himself as a victim made to serve some ulterior purpose, and when asked what enemies he had who would persecute him so, he intimated that the matter originated in deeper counsels than those of man. When pressed still farther on this point, he declared that for some good and wise purpose, known only to God himself, he was to be sacrificed, and he was perfectly willing. On the subject of his approaching death he spoke calmly, and even cheerfully. He said he did not expect a reprieve, nor did he wish to live. Life had no charms for him. He had tried repeatedly to take his own life, and while in the service he always had exposed himself in every possible way, in the hope that an enemy's bullet would do for him what he had been unable to do for himself. He wished for no clergyman, because no clergyman could tell him anything about the spiritual world that he did not already know. He believed in God, and in future rewards and punishments, and being perfectly innocent of the crime laid to his charge, why should he have a clergyman? He stoutly maintained that he did not commit the act for which he was to suffer. He had been in the habit of visiting the deceased, occasionally, their common belief in spiritualism having led to the acquaintance, and on this occasion, going into the house as usual, he found her dead—murdered. In this interview he exhibited none of the traits of a criminal, either in his language, manner, or countenance, but rather those of a dreamy,

visionary youth, whose speculations had carried him far beyond the common experience of man,—so far, in fact, that he hardly knew, at any time, whether he was in the body or out of the body. In these statements respecting his own mental experience, there is no reason to doubt his entire belief. The air of sincerity and good faith by which they were accompanied could not have been counterfeited, even by a consummate actor. We ought, perhaps, to except from the scope of this remark the denial of his guilt, for there was nothing peculiar in that, considered apart from the rest of his discourse.

Here our knowledge of the prisoner's history ends. Farther investigation might have removed all the obscurity resting on his psychological condition, but we need not, on this account, withhold the impressions made by the facts that came within our reach.

Whether from hereditary predisposition or not, it is obvious that the prisoner was born with a nervous system strongly inclined to morbid manifestations. One of these, which actually made its appearance at a very early period, was epilepsy, which of all the forms of cerebral disorder, stands among the gravest. Coincident with this, either as a direct effect, or a collateral result of the original nervous defect, there appeared in childhood instances of unconsciousness, which, pathologically considered, may be affiliated to somnambulism and catalepsy. And these continued to occur through the latter years of his life, though not perhaps in so well-marked a form. It could hardly have been expected that his intellectual operations would entirely escape from the influence of this abnormal condition of the nervous system. Hence his distaste for exact and practical knowledge requiring continuous attention and effort, and his fondness of reverie and dreamy specula-

tion, which needed neither discipline nor preparation. This trait strengthened with advancing years until his whole intellectual life became little better than a dream, in which the inward and the outward, the real and the imaginary, were inextricably mingled and confused.

For legal purposes it might seem necessary to separate the epileptic element from the rest, and ascertain the precise amount of its influence upon the moral character and conduct. But the elements of nervous disorder were too long and too intimately associated together to allow of this. Even under very different circumstances the effect of epilepsy on the mental manifestations is often determined, somewhat, by the training and habits of the individual. Not to the same extent, certainly, that mania is, but enough to be taken into the account in any psychological estimate of its consequences. In this case it may have had the effect of rendering his notions on certain subjects still more extravagant and remote from the line of common belief than they would otherwise have been. Whether or not it ever produced delusions, is a point on which the evidence is not very clear. His spiritualistic experience was that, for the most part, of thousands of other people never supposed to be insane, and yet it is difficult to draw the dividing line between this kind of experience and downright insanity. That the one passes into the other is a matter of common observation, and if some of his most extravagant notions respecting his intercourse with spirits be held in common with a few other spiritualists, it may be questioned whether these are not of the class who have entered this transition-state, or even completed their passage through it. The probability of such a fact can scarcely be doubted. We know that the delusions of the insane are often merely exaggerations of their habitual belief. Spiritualism in

any shape is a matter of temperament rather than a deduction of evidence and reason, and thus is furnished an additional proof that Winnemore was endowed with a nervous system peculiarly liable to abnormal activity. I do not mean to convey the idea that the facts of spiritualism are entirely the creation of fancy or of fraud. Many of them are susceptible of proof, and are attested by evidence that place them beyond a reasonable doubt. They indicate the existence of agencies, certainly, that have not yet been admitted into the philosophy of the schools. It is to be regretted that the prevalent tendency is to ignore them entirely, rather than to make them a subject of scientific investigation. It is surprising that physicians, especially, with such well-recognized affections before them as catalepsy, somnambulism, ecstasies and double consciousness, should jump to the conclusion that all the facts of spiritualism and animal magnetism are utterly anomalous and impossible.

Winnemore's notion about his being a victim, which might seem, at first sight, to be a genuine delusion, was, probably, only a rational notion carried to the utmost verge of extravagance. When his innocence should be proved hereafter to the satisfaction of everybody, as he believed it would, the consequence would be an utter change of popular opinion on the subject of capital punishment, and thus he might regard himself as a sacrifice offered up for the good of humanity—not merely as a martyr whose blood, in the ordinary and regular course of events, would become the seed of a great benefit, but as the favored child of a magnificent destiny prepared and arranged in the councils of the Almighty.

It was not alleged that his disease had produced any moral perversion. On the contrary, the evidence showed that he always displayed the same mild, quiet, inoffensive disposition, from first to last. An attempt was

made on the trial to prove that he had stolen, or was suspected of having stolen, from his friends, but it came to nothing.

If the deed was committed under the influence of his disease—supposing the charge to have been true—we are necessarily led to inquire what particular phase of it was present. No one supposes that his mind was generally so impaired as to be incapable of discerning right from wrong, of knowing that murder is forbidden both by human and divine law, or of controlling the feeblest impulses of passion. The act could not have sprung from such a condition as that. Neither is there any ground for the supposition that he was under the dominion of that blind fury, so frequently exhibited by epileptics immediately before or after a fit; or that his mind was overpowered by apprehensions of danger, or a sense of persecution and outrage from persons, real or imaginary, around him. Neither of these phases of the disease had he ever exhibited, and though it is not impossible, perhaps, that the latter occurred on this occasion for the first time, there is not the slightest reason to believe that such was the fact. We then come to the only other epileptic condition in which the act could have happened—that of utter unconsciousness—and though we have no direct evidence respecting it, neither are we met by any circumstance of the case that would render it impossible. He had been in this state more than once before, and it was one of its incidents that he had no idea whatever of what he thought or did while in them. It appears that the woman was fond of making pictures of a peculiar kind, and he declared that it affected him very strangely and painfully to look at them, insomuch that when they were exhibited in court during the trial he begged that they might be removed, for he could not endure the sight. Coming upon them,

suddenly perhaps, as he entered the room, they might have had the effect of inducing one of those abnormal conditions of mind in which his acts were beyond the reach of consciousness or proper will. To a person of his very susceptible nervous organization, already the subject of many morbid manifestations, such an event might not have been impossible. True, the supposition borders on the marvellous, but we must bear in mind that Winnemore manifested a class of phenomena confessedly curious and obscure. If any one supposes that the marvellous is incompatible with true science, deserving only rebuke and derision, let him consider that every step in the progress of science has been but the repetition of a marvel, scouted at first as unworthy of the serious attention of the philosopher, and welcomed at last with triumphant admiration and joy. Whether, as a matter of fact, the deed was committed as here supposed, is a question that cannot be conclusively answered. Of this, however, we may be assured, that it was either thus committed or was prompted by the ordinary motives of crime—interest or passion. Difficulties surround both hypotheses, while the question is also complicated by very grave doubts as to whether the deed of violence was done by the prisoner at all. If he killed the woman unconsciously, he might also have thrown the razor into the privy unconsciously, but all this would not have prevented his knowing, when he came to himself, that he entered the house with the razor in his pocket, for such must have been the fact. On the other hand, it was not pretended that he was a hardened criminal, and it did not appear that he had led a vicious life. It seems to be quite incredible that the alleged motive—that of getting a few dollars—would have induced such a man to murder a woman, deliberately and designedly, from whom he had experi-

enced nothing but kindness. In this connection it must be borne in mind, that he always denied that the razor found in the privy was his, which, he declared, got broken and was thrown into the street, several days before.

Farther observation and inquiry might have thrown more light on this interesting case. At subsequent interviews his manner and manifestations might have been different, indicating a wider reach of the pathological element. His counsel told us that he varied considerably at different times, and that during the trial he was sometimes so dull that they could hold no intelligent communication with him. Something might have been learned from those who had been conversant with him during the last four or five years, while serving in the army at a distance from his home and friends. That period must have embraced many interesting facts in his psychological history, and it is to be regretted that no opportunity occurred for learning them. Left as it is, it gives the physician scope for abundant speculation but no certain conclusion, while to the lawyer its results must seem more like a triumph of ignorance and passion than of professional skill overcoming every device and obstacle, and arriving at last to a sure and satisfactory end.

Before dismissing the subject, a sense of duty obliges us to animadvert, in the strongest terms of reprobation, on some of its incidental features, though one would gladly avoid the shame and mortification which it involves. The laws of the land and the great unwritten law of humanity provide for every one charged with crime a fair trial of his case,—a trial in which every reasonable opportunity will be afforded for making good his defence. The simple mention of a few dates and circumstances, without argument or comment, will show

sufficiently how this sacred right was respected in this instance. Within eight days after the homicide was committed, Winnemore was arraigned for trial. Counsel were assigned him who had never seen him before, and knew no more than any body else about the facts of the case. The junior counsel was just admitted to the bar, and the senior counsel was then and continued to be, for several days, engaged elsewhere. They begged for a postponement of the trial, in order that they might make the necessary preparation. This request was resisted by the district attorney, for no other reason than that he was ready for trial, and that great crimes should be punished speedily. A delay of two days, however, was granted, when the prisoner's counsel again begged for more time, but without success. This brief statement of the facts is enough to show that the prisoner had not a fair trial. The counsel were dependent on chance for the witnesses that might appear; they went to trial without having decided on the defence to be adopted; they had no opportunity to confer with experts, and experts, if employed, would have had no opportunity to examine the mental or bodily condition of the prisoner; strange rules of evidence were sprung upon them, excluding much of the medical testimony they offered; and evidence of the highest importance came too late, though the utmost dispatch was used to obtain it. True, the government offered every facility for obtaining evidence, except the only one that could be of any avail, and were willing to admit certain facts which witnesses not forthcoming were expected to prove. A single incident will show how this swift dispatch affected the prisoner's interests. It was one of the points made by the government, that, although Winnemore might have been an epileptic in his childhood, it did not appear that he had been afflicted with

the disease during the latter years of his life. Of course it did not, because even the speed of the United States mail was insufficient to transmit in season the requisite evidence then on its way—the certificate of the surgeon of his regiment that he was an epileptic, and was discharged from the service for that reason.

The reason offered for precipitating the trial of Winemore, viz., that the public good required that the punishment of so foul a crime should follow immediately on the heels of the offence, would be entitled to respect if presented in good faith, with a sincere and systematic endeavor to make the administration of the law accomplish its proper ends. Such a wide departure from the custom of the country in capital cases, even for the commendable reasons alleged, naturally leads to inquiries that show very clearly how sincere and systematic was this pretended regard for justice. Just before this case occurred, a man went in to one of the court-rooms of Philadelphia while a trial was proceeding, and deliberately killed one of the parties to the suit, by a pistol-shot. So foul a murder as this—perpetrated in the very temple of justice itself—would seem to deserve, if any murder could, the most speedy and condign punishment in the power of the law to inflict. But mark the sequel. After a delay of several weeks this man was put upon trial. A band of able advocates appeared to defend him. A cloud of witnesses, embracing not one who could properly be called an expert, testified that he was insane when he committed the act. He was acquitted on the ground of insanity, and on the very next day, testimony being presented that he had recovered his reason, he was discharged by the court from farther confinement. And yet the prosecuting officer was the same in both instances!

It is a wise constitutional provision that enables the executive, in certain cases, to remedy the mistakes of the judicial authority, and secure to the criminal the benefit of those mitigating circumstances of which the courts can take no cognizance. Hampered by no rigid rules of proceeding, enjoying a certain freedom of choice in the use of the means at his disposal, allowed to go behind and beyond the records of the courts, the Governor of a State is able, in the exercise of his prerogative, to perform a service of the highest importance to society. Although the power thus given to him is to be used discretionally, yet its use is not a matter of caprice or arbitrary will. Whatever course he may take, whether he interposes or refrains from interposing, he is responsible for his decision to the conscience and understanding of the community—not merely to that little aggregate of individuals whose suffrages have placed him in power, but to that immense society which has any regard for the triumph of right and the progress of humanity. Failing to obtain a new trial, Winnemore's counsel appealed to the Governor to appoint a medical commission for the purpose of ascertaining, by a suitable investigation, the prisoner's mental condition. The appeal was unsuccessful. Almost at the very last moment, they engaged the gentlemen whose names have been already given to visit the prisoner, with the idea that even in a single interview, for no more was possible, they might find enough to warrant them in asking for a stay of the execution, in order that they might have a suitable opportunity for making a thorough examination of his case. The result has been already given. The wisdom of the Governor's course is not very obvious. It would seem to be the very case for executive interposition. The prisoner had had a hasty trial; important evidence had arrived too late; those who were

most acquainted with his history, psychological and pathological, during his latter years, were too far off to be available; though laboring under a disease which almost invariably impairs the mind, no physician had examined him for the purpose of ascertaining the precise effect which it had exerted upon him; poor, and comparatively friendless, he was without the usual means of securing the favorable regards of men. Circumstances like these plead trumpet-tongued for every privilege and indulgence which the laws and customs of the land allow. A medical commission, whatever might be the result of its inquiries, could not change the legal status of the prisoner. If unfavorable to the idea of mental impairment, the execution would have happened all the same, though delayed for a week or two. If, on the other hand, it showed that the prisoner was really irresponsible, from the long continued effect of disease, the Executive might have felt obliged to save him, and far be it from us to intimate that this would not have been gladly done. We can only suppose that the Governor had too readily received the impression, somewhat current among intelligent people, that the defence of insanity is generally a contrivance of ingenious counsel, favored by fanciful doctors, for saving a criminal from merited punishment; and consequently, that no proper purpose would be served by disturbing the results of the trial. However that may be, one cannot but regret that he should have lost the opportunity thus offered of adding to the laurels so nobly won in the field another not less durable, reaped in the humbler service of humanity.

The case of Winnemore has brought to mind that of Fyler, also an epileptic, who was tried in Onondaga County, N. Y., in 1855, for killing his wife. It was the first time, in this country, to my knowledge, when epi-

lepsy was pleaded in defence of crime. The two cases were strikingly similar in many important points. Both were young; in both the disease had existed several years, but without producing any very obvious mental impairment beyond the immediate effects of a fit; in both there was no evidence that a fit had occurred about the time of the homicide, or that they exhibited any of the ordinary signs of a fit; in both the proof that they committed the act at all was only circumstantial, and both protested their innocence to the last; in both there was an apparent absence of any adequate motive. In other respects they exhibited a remarkable contrast. In Fyler's case the homicide occurred in February, 1854. The Grand Jury indicted him the following March, and he was arraigned for trial the next June. The prisoner's counsel not being ready, the case was postponed, and a special term for the trial was ordered by the Governor, in November. Another postponement was obtained, and the trial finally came on in February 1855, or a year after the act was committed. A verdict of guilty was rendered, when his counsel moved a suspension of sentence, on the ground that the prisoner was then insane. In this they succeeded. A medical commission was appointed to investigate his mental condition, who reported that he was then insane, and he was thereupon committed to the asylum at Utica. Is it necessary for us to say which of these two cases presents that higher regard for justice, that keener sense of humanity, which are supposed to be a legitimate result of the advancing civilization of our times? If the case of Bellingham, the assassin of Mr. Percival, who was tried, sentenced, executed and dissected, all within a week of the commission of the deed, was justly stigmatized by an English judge, in his seat on the bench, as "a piece of barbarity," we

could hardly venture to name the severe censure that the case of Winnemore provokes, occurring as it does after a half century of progress, and among a people who have been accustomed to be shocked by the careless dispatch of an Old Bailey trial.

A word or two more before I close, on the general issue presented by such cases as Winnemore's and Fyler's. It can scarcely be denied that epilepsy, considered as a source of mental impairment, has not been so thoroughly studied as most other forms of cerebral affection. Physicians have given their attention too exclusively to the fit, and the state of things immediately preceding and succeeding it; and this is not strange when we consider that most epileptics, during the first few years, continue their customary employments, and to the world at large seem to have suffered no mental deterioration. Indeed, they are seldom the subjects of any medical observation at all. It is not, generally, until the mental powers have become very obviously impaired that they find their way into a hospital, where their mental condition is closely observed. What we need above all things else in the medical history of this disease, is more information respecting that general impairment of the mind which, sooner or later, in a greater or less degree, is sure to follow. The frequency of the disease makes its medico-legal relations a subject of the highest importance, for the trials in which it will be offered in defence of criminal acts will be steadily increasing in number. The older medical jurists were disposed to make its exculpatory effects a matter of time, and sought for an arbitrary period before and after the fit within which they should be confined. We know enough more of epilepsy than they did to be sure that such views are too narrow, though quite unable, certainly, to say precisely in what degree. The more conversant we

become with epilepsy, the more strongly is the conviction forced upon us that its damaging effect upon the mind begins at an earlier period than that usually assigned to it, and that some of the phases of this process are as yet imperfectly understood, even when recognized at all. There is reason to believe that some epileptics lose their proper consciousness occasionally, even when not under the immediate influence of a fit. In what proportion of cases this may occur, how often it may appear, and how long it may last—these are questions for future inquirers to answer. It is our duty, however, to see that the general fact, imperfectly as it is understood, should have its legitimate influence on judicial decisions. The excessive susceptibility of epileptics to nervous impressions, which become distorted if not utterly changed on their way to the sensorium, is a phenomenon not clearly recognized by the profession at large, although it cannot have failed to meet the attention of the close observer. In medico-legal inquiries it should never be ignored or forgotten, for it may be the very phase of mental disturbance which prompted the criminal act. Let it not be objected that these are dangerous innovations, because such a thing ought not to be said of any scientific conclusion, honestly and intelligently reached. The distrust naturally felt towards any considerable advance upon existing views, is no proof against it with any well-disciplined mind; and no class of persons has had better evidence of the fact than that which is engaged in the study of insanity and the insane. It is not long since it was proclaimed, from many a high place in the world, that to make any other form of insanity than idiocy and raving mania an excuse for crime is a dangerous innovation, to be frowned upon by every friend of public order.

In view of what we already know of epilepsy and of what still remains to be learned, we have a right to require the utmost circumspection and the closest investigation whenever the legal liabilities of epileptics are in question. The fact of its existence being established, is it going too far to say that legal responsibility is presumptively annulled, and that the burden of proof lies on the party that alleges the contrary? People are scarcely ready for it yet, perhaps, but to that complexion will they come at last.

